



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,531	11/30/2005	Josephus Jan Emeis	VER-191XX	4249
207 7590 09/29/2008 WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109				
EXAMINER				
OGUNBIYL, OLUWATOSIN A				
ART UNIT		PAPER NUMBER		
1645				
MAIL DATE		DELIVERY MODE		
09/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**ADVISORY ACTION**

The amendment filed on 9/8/08, under 37 CFR 1.116, in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because, minimally, the proposed amendment introduces new limitations that have not been previously considered and would require new considerations. The amendment to claim 1 would raise new issues that would require further consideration and a new search.

***Rejections maintained***

The rejection of claims 1, 3 and 4 under 35 U.S.C. 102(b) as being clearly anticipated by Zurdo et al. Biochem. J. 1991, Vol. 274, pages 881-884 is maintained for reasons made of record in the office action mailed 6/6/08.

Applicants' argument is predicated on an amendment that is not entered and not further considered on the merits. Therefore, the rejection is maintained.

The rejection of claims 1, 3 and 4 under 35 U.S.C. 103(a) as being unpatentable over Zurdo et al. Biochem. J. 1991, Vol. 274, pages 881-884 in view of ATCC® Bacteria and Bacteriophages catalog, 1996 p. 108 (cited previously) and Imhoff et al. International Journal of Systematic Bacteriology (1998) 48:793-798 (cited previously) is maintained for reasons made of record in the office action mailed 6/6/08.

Applicants' argument is predicated on an amendment that is not entered and not further considered on the merits. Therefore, the rejection is maintained.

The rejections of claims 1, 6 and 9 under 35 U.S.C. 103(a) as being unpatentable over Zurdo et al. Biochem. J. 1991, Vol. 274, pages 881-884 and ATCC® Bacteria and Bacteriophages catalog, 1996 p. 108 (cited previously) and Imhoff et al. International Journal of Systematic Bacteriology (1998, cited previously) 48:793-798 as applied to claims 1, 3 and 4 above further in view of Schmidt-Dannert et al. Current Opinion in Biotechnology, 2000, Vol. 11, pages 255-261 and Wang et al, CN 11172653 02/11/1998 (cited previous action is maintained for reasons made of record in the office action mailed 6/6/08.

Applicants' argument is predicated on an amendment that is not entered and not further considered on the merits. Therefore, the rejection is maintained.

#### *Status of Claims*

Claims 1,3,4,6 and 9 are rejected. No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oluwatosin Ogunbiyi whose telephone number is 571-272-9939. The examiner can generally be reached on M-F 8:30 am – 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Shanon Foley can be reached on 571-272-0898.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Oluwatosin Ogunbiyi/

Examiner, Art Unit 1645

/Patricia A. Duffy/

Primary Examiner, Art Unit 1645